



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DMP:DKK/ICR/FJN
F. #2021R00059

*271 Cadman Plaza East
Brooklyn, New York 11201*

April 14, 2021

By ECF

The Honorable Pamela K. Chen
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Brendan Hunt
Criminal Docket No. 21-086 (PKC)

Dear Judge Chen:

The government submits this letter pursuant to the Court's orders of April 12 and April 13, 2021, requiring each party to submit "marked exhibits" of evidence of the defendant's intent in committing the charged crime that the party anticipates offering at trial. The evidence described below encompasses materials that were previously disclosed in Attachments A and B to the government's Notice pursuant to Federal Rules of Evidence 404(b) (the "404(b) Notice"). See Dkt. No. 44. Broadly speaking, the evidence falls in two categories: (1) certain of the defendant's statements related to the November 2020 election, the storming of the United States Capitol on January 6, 2021, and the aftermath of those events and (2) other evidence of the defendant's knowledge of white supremacist and anti-Semitic propaganda, beliefs, and symbols.¹

The government may not offer all of the exhibits identified herein at trial but identifies them now in an abundance of caution. In addition, the government does not concede that any of the exhibits discussed herein would be admissible if offered by the defendant instead of the government, including exhibits that contain statements of the defendant that would plainly be offered for their truth or for his "state of mind" at a time when that was irrelevant. Nor does the government believe that, if the government offered a portion or excerpt of an exhibit discussed herein, the defendant would be entitled to offer the rest of the exhibit on the basis of

¹ Although some of this evidence was discussed in the government's 404(b) Notice, the bulk of the evidence is admissible direct evidence of the charged crime.

“completeness.” Finally, the government notes that the defendant has not provided the government with any discovery pursuant to Rule 16 of the Federal Rules of Criminal Procedure.

The exhibits the government is submitting to the Court today are in draft form, although the government does not anticipate that the substantive content of any exhibits will change. In addition, the government is not including in this list various exhibits containing metadata or other evidence whose purpose would be to discuss the timing, authorship, or other characteristics of these exhibits.

I. Defendant’s statements related to the November 2020 election, the storming of the United States Capitol on January 6, 2021, and the aftermath of those events²

GX 40A - GX 40C consist of text messages between the defendant and a relative on November 5 and November 6, 2020. The defendant’s statements were discussed in the 404(b) Notice, but the government has added the relative’s messages for context.

GX 150B – GX 150G consist of posts the defendant made on his Facebook account. These posts were discussed in the 404(b) Notice.

GX 151A and GX 151B consist of posts the defendant made on his Parler account. These posts were discussed in the 404(b) Notice.

GX 20 – GX 28 consist of videos the defendant posted on BitChute.³ The government is providing the Court with a copy of each full video but intends to offer only video clips associated with the highlighted portions of the transcripts being provided as GX 20T – GX 28T.⁴

GX 20P and GX 21P are the images the defendant associated with the two versions of his “Kill Your Senators” video.

² Some of the exhibits referenced in Part I include statements that are additionally relevant to establishing the defendant’s knowledge of white supremacist and anti-Semitic propaganda, beliefs and symbols, and were also identified in Attachment B to the 404(b) Notice. The government does not separately refer to these statements in its discussion of the exhibits relevant to this purpose in Part II below.

³ The defendant posted many of these videos to YouTube, and copies of the vidoes were found on his laptop. The government may also introduce, but is not submitting to the Court for review, these additional copies of the videos, which copies are substantively similar to the BitChute versions. The government can provide these copies at the Court’s request, and will provide them upon submission of a full set of exhibits. The government may also introduce GX 5, another copy of the “Kill Your Senators” video that was preserved by the FBI on or about January 9, 2021. The contents of the video are identical to the version produced by BitChute.

⁴ There is only one transcript for the “Kill Your Senators” video, GX 21T.

GX 109 consists of all data, not including images, videos, or other user's comments, for the defendant's BitChute account. GX 109B – GX 109K consist of metadata and associated content, from BitChute associated with the aforementioned videos. This includes content created by the defendant, including video titles, video descriptions, and "hashtags."

GX 110 consists of all comments provided by BitChute associated with the aforementioned videos. GX 110A consists of all comments posted on the "Kill Your Senators" video, whose identifier is "fdsOKAKBIEaM." GX 110B consists of only the defendant's posts and immediate context with respect to the "Kill Your Senators" video. The defendant's identifier is "OQxPUO9NJ8e6." GX 110C consists of two posts the defendant made about videos posted by other users.

GX 3 and GX 4 are screen captures of the defendant's BitChute website, and GX 6 contains screen captures of one of the defendant's Facebook accounts.

In addition to the aforementioned exhibits, the government may prepare summary charts of demonstratives related to these exhibits, but does not anticipate that any of those summary charts will add substantive content beyond what is discussed here.

II. Other evidence of the defendant's knowledge of white supremacist and anti-Semitic propaganda, beliefs, and symbols

GX 41A – GX 41C consist of text messages between the defendant and a close friend on May 8 and May 12, 2020. The defendant's statements were discussed in the 404(b) Notice, but the government has added his friend's messages for context.

GX 40D – GX 40F consist of text messages between the defendant and a relative on November 6, 2020, and January 12, 2021. The defendant's statements were discussed in the 404(b) Notice, but the government has added the relative's messages for context.

GX 150H – GX 150J consist of posts the defendant made on his Facebook account. These posts were discussed in the 404(b) Notice, and includes the defendant's use of the anti-Semitic "echo" typographical code.⁵

GX 30 and GX 30T consist of a short video extracted from the defendant's laptop and a transcript of the video. The video is substantially similar to the video marked for deletion from the defendant's cellular telephone, that was identified in the 404(b) Notice as one in which the defendant discusses the need to use code words to discuss sensitive subjects to avoid YouTube's censors.

⁵ The government anticipates that the government's expert will testify, in sum and substance, that the "echo" is a typographical code used by some anti-Semites on the Internet that consists of three pairs of parentheses placed around a name or around a term or phrase to identify a person as Jewish or to indicate that the enclosed term or phrase is actually synonymous with Jews. See <https://www.adl.org/education/references/hate-symbols/echo>.

GX 50 consists of the PDF copy of convicted murderer Dylann Roof's jailhouse manifesto that was extracted from the defendant's computer, and associated metadata reflecting that it was downloaded on or about November 6, 2020, and including the use of the white supremacist symbols "14"⁶ and "88".⁷ This file was discussed in the 404(b) Notice.

GX 51 consists of a record of the creation dates of browser cookies installed by the website at the domain "dailystormer.su" on the defendant's cellular telephone. These cookies were discussed in the 404(b) Notice.⁸

⁶ The government anticipates that the government's expert will testify, in sum and substance, that the number "14" is a numerical code that refers to "the most popular white supremacist slogan in the world: 'We must secure the existence of our people and a future for white children.' . . . The term reflects the primary white supremacist worldview in the late 20th and early 21st centuries: that unless immediate action is taken, the white race is doomed to extinction by an alleged 'rising tide of color' purportedly controlled and manipulated by Jews." See <https://www.adl.org/education/references/hate-symbols/14-words>.

⁷ The government anticipates that the government's expert will testify, in sum and substance, that the number "88" is a white supremacist numerical code for 'Heil Hitler,'" and that it is "[o]ne of the most common white supremacist symbols, . . . used throughout the entire white supremacist movement." See <https://www.adl.org/education/references/hate-symbols/88>; see also <https://www.adl.org/education/references/hate-symbols/1488>.

⁸ The government anticipates that the government's expert will testify, in sum and substance, that the "Daily Stormer" is a website used to spread and discuss white supremacist and anti-Semitic propaganda, beliefs, and symbols. See <https://www.adl.org/news/article/andrew-anglin-five-things-to-know>.

GX 52 consists of a record of a file with the name “Protocols of Learned Elders of Zion Part 01 of 01.pdf” that was deleted from the defendant’s cellular telephone. This file was discussed in the 404(b) Notice.⁹

The government has provided these exhibits for the Court’s inspection via a file-sharing program.

Very truly yours,

MARK J. LESKO
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cc: Clerk of the Court (PKC) (by ECF)

⁹ The government anticipates that the government’s expert will testify, in sum and substance, that the Protocols of the Learned Elders of Zion is anti-Semitic propaganda used to foment anti-Semitic hatred. See <https://www.adl.org/resources/backgrounders/a-hoax-of-hate-the-protocols-of-the-learned-elders-of-zion>.